

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED
SEP 4 2018
Clerk, U.S. Courts
District Of Montana
Missoula Division

ROBERT GELINA,

Petitioner,

vs.

JAMES SALMONSEN,

Respondent.

CV 18-73-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered his Order and Findings and Recommendations on June 29, 2018, recommending that Petitioner Robert Gelina's Petition for Writ of Habeas Corpus (Doc. 1) be dismissed for failure to exhaust. (Doc. 4 at 6.) Petitioner failed to timely object to the Findings and Recommendation and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).


After reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston's Order and Findings and Recommendations (Doc. 4) are ADOPTED IN FULL and the Petition (Doc. 1) is DISMISSED WITHOUT PREJUDICE as unexhausted.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 4th day of September, 2018.



Dana L. Christensen, Chief Judge
United States District Court